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Consejo de Seguridad

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Carta de fecha 21 de diciembre de 2004 dirigida al Presidente del Consejo de Seguridad por el Secretario General

Tengo el honor de referirme a la carta de fecha 14 de diciembre de 2004 que me dirigió el Ministro de Relaciones Exteriores e Inmigración de Papua Nueva Guinea, Sir Rabbie L. Namaliu, en relación con el proceso de paz de Bougainville y el mandato de la Misión de Observadores de las Naciones Unidas en Bougainville (MONUB), del que encontrará una copia adjunta (véase el anexo)*.

Quisiera felicitar al Gobierno de Papua Nueva Guinea y a las partes en el proceso de Bougainville por haber superado sus diferencias y haber adoptado la Constitución de Bougainville, abriendo así la vía hacia la celebración de elecciones para formar un gobierno autónomo de Bougainville. Los preparativos para la celebración de las elecciones ya han comenzado y en la carta del Ministro de Relaciones Exteriores se ofrecen detalles al respecto. La Comisión Electoral de Papua Nueva Guinea ha establecido un calendario para las elecciones en consulta con la Administración de Bougainville. Por consiguiente, está claro que el Gobierno de Papua Nueva Guinea y las partes de Bougainville siguen firmemente comprometidas a aplicar el Acuerdo de Paz sin más demora.

Por lo que se refiere al plan de eliminación de armas, uno de los principales elementos del Acuerdo, el Gobierno de Papua Nueva Guinea y la administración provincial de Bougainville prosiguen sus actividades, con la ayuda de la Misión de Observadores de las Naciones Unidas en Bougainville, para alentar a los excombatientes a destruir el 6% de las armas contenidas que quedan, lo que debería contribuir a eliminar el último obstáculo para la puesta en marcha del proceso electoral.

Como ya saben los miembros del Consejo, la Misión de Observadores supervisa la situación en materia de seguridad y rinde cuentas al respecto al Comité Consultivo para el Proceso de Paz, del que ostenta la presidencia. Dicha función es particularmente importante durante el período que concluirá en la celebración de elecciones. Dado que Francis Ona ha reanudado sus actividades en el conjunto de Bougainville, es fundamental que la Misión siga facilitando el diálogo entre sus partidarios y los dirigentes de Bougainville hasta el final de las elecciones. Una vez que se haya instaurado el Gobierno Autónomo de Bougainville, éste asumirá las funciones de Comité Consultivo y la Misión habrá cumplido la totalidad de sus funciones. El Gobierno Autónomo de Bougainville se encargará también directamente de la cuestión de la "zona de acceso prohibido".

* El anexo se distribuye en el idioma de presentación únicamente.

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Los preparativos de las elecciones dirigidos por el Gobierno de Papua Nueva Guinea de forma transparente y exhaustiva constituyen una evolución positiva y merecen nuestro apoyo. Habría que hacer todo lo posible por apoyar los logros alcanzados hasta la fecha con el fin de que las partes puedan llevar a buen término el proceso de paz en junio del año próximo.

Habida cuenta de lo anterior, agradecería al Consejo que respondiera positivamente a la solicitud del Gobierno de Papua Nueva Guinea de mantener la presencia de la Misión en Bougainville y quisiera recomendar que el mandato de la Misión de Observadores se prorrogara por un nuevo período de seis meses, hasta el 30 de junio de 2005, con el fin de que pueda concluir las tareas que fueron aprobadas por el Consejo.

(*Firmado*) Kofi A. **Annan**

Annex

Letter dated 14 December 2004 from the Minister for Foreign Affairs and Immigration of Papua New Guinea addressed to the Secretary-General

[Original: English]

MINISTER OF FOREIGN AFFAIRS AND IMMIGRATION

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14 December 2004

H. E. Kofi Annan
Secretary-General, United Nations
United Nations Secretariat
New York, N. Y. 10017
United States of America

Your Excellency,

United Nations Observer Mission in Bougainville, Papua New Guinea (UNOMB)

I have the honour to express Papua New Guinea's sincere appreciation, on behalf of all of the parties involved, for the support the United Nations provides for the peace process in Bougainville, Papua New Guinea.

Mindful of United Nations member-states' concern that the process proceed with all deliberate speed to the point at which UNOMB will complete its agreed mandate and withdraw, I respectfully draw Your Excellency's attention to the progress recorded below.

With so much achieved and UNOMB's natural exit-date, the election of the Autonomous Bougainville Government, so close at hand, Papua New Guinea respectfully requests Your Excellency to bear these considerations in mind in addressing the request that Papua New Guinea now makes for UNOMB to be extended in order to fulfil its responsibilities.

Progress and challenges

Let me begin my account of progress achieved and challenges still to be met by advising Your Excellency that, earlier today, one of the most significant milestones in the transition to Bougainville autonomy was passed, when the National Executive Council (NEC) approved the text of the Constitution for the Autonomous Bougainville Government sent to us from Bougainville, and agreed to advise the Head of State to formally endorse it.

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VM/EA/TI

As the *Papua New Guinea Constitution* requires the Head of State to act 'in accordance' with NEC's advice, this means that the Bougainville Constitution is now in its final form, and ready to come into operation.

Implementation of the Bougainville Constitution is a formality - with publication of the *National Gazette*, which will make it operational, expected within days.

The detailed provisions for holding elections contained in the Bougainville Constitution mean that the way forward towards the elections is clear. As these provisions draw on similar, longstanding provisions in other Papua New Guinea electoral laws, they are also, in many respects, familiar. This is expected to facilitate implementation.

I am, therefore, pleased to advise that one of the terms of reference for UNOMB contained in Your Excellency's letter of 19 December to the President of the United Nations Security Council, (c) Preparation of the proposed constitution for the autonomous Bougainville Government, has been completed.

As a result, the schedule for (d), UNOMB's role in relation to the timing of elections is now clear (the detailed timetable prepared by the Papua New Guinea Electoral Commission in consultation with the Bougainville Administration and electoral officials in Bougainville for making the preparations required and holding the elections is attached).

Together, these two developments are both very significant milestones and signposts for the final stages of an orderly, timely exit-strategy for UNOMB to fulfil its agreed mandate and withdraw.

UNOMB's terms of reference

Turning now to the details of the terms of reference for UNOMB advised in Your Excellency's letter of 19 December 2003 to the President of the United Nations Security Council, I am now pleased to advise as follows:

(a) **Peace Process Consultative Committee (PPCC), and**

(b) **Disposal and Destruction of weapons**

Implementation of the agreed weapons disposal plan continues to move ahead.

With 94% of the 1,861 guns contained when UNOMB verified and certified at stage 2 in July 2003 – and other guns brought in and destroyed since then – the total number of guns now destroyed, 1,879, is actually slightly greater than the number contained at stage 2. The destruction of guns has been completed in seven of the 10 Districts in Bougainville and Buka Islands. The Government and Bougainville leaders are working closely together to resolve issues and promote reconciliation in the area where the most

substantial concentration of guns remains (50 which have been contained at Laguai in the Buin District, South Bougainville).

As Your Excellency will recall, UNOMB's verification and certification of stage 2 of the agreed weapons disposal plan was based on consultations with communities around Bougainville. UNOMB's report focused on the sense of security there; it acknowledged there were communities remaining outside the peace process (in the 'No-Go Zone' around Panguna), and guns still at large. This approach, accepted by all of the parties, allowed the peace process to keep moving ahead (and specifically for the Constitutional Laws providing the framework for making the Bougainville Constitution and the establishment of the Autonomous Bougainville Government to come into operation).

A critical safeguard for all of the parties is the provision in the agreed weapons disposal plan contained in the *Bougainville Peace Agreement*, and given the force of law by the *Papua New Guinea Constitution*, that UNOMB is available to respond to a request by 'any of the parties ... to verify and certify whether there has been substantial compliance by the parties in the handing in of weapons and whether the level of security of the weapons makes it conducive to holding the elections.' As UNOMB's report is to be 'presented to and considered by, the PPCC', it is vital that both continue to be available until the elections are held.

Until the elections, when the Autonomous Bougainville Government will become the legitimate representative of the Bougainville parties, the PPCC will continue to be the sole agreed forum in which all of the parties can meet to consult and co-operate on peace process-related issues. This is important both in relation to determining any differences over whether elections should be held or deferred, and as far as contacts between the National Government and the Bougainville Revolutionary Army (BRA) for these and other purposes are concerned.

It is, therefore, vital that UNOMB remain to chair and fulfil its agreed responsibilities in relation to the PPCC until the elections are held, when neither will be required.

(c) Preparation of the proposed constitution for the autonomous Bougainville Government

Now completed.

The provisions in the Bougainville Constitution containing the legal specifications and procedures for holding elections will become operational immediately the few remaining formalities outlined above have been completed, and the *National Gazette* announcing the Governor-General's endorsement of the Bougainville Constitution is printed and issued.

The achievement of this important milestone follows a process in which the Government (on a bipartisan, National basis) and Bougainville leaders worked closely together to come up with joint recommendations for amending the draft Bougainville Constitution so

that the Bougainville Constituent Assembly could finalise and adopt it, confident that they had addressed concerns regarding the need for consistency with the *Papua New Guinea Constitution.* The amendments were approved and the Bougainville Constitution was adopted on 12 November. The text was finalized and submitted to the National Government on 6 December.

For its part, the National Executive Council then 'fast-tracked' final approval by receiving, considering and advising the Head of State to endorse the Bougainville Constitution (as adopted) together - only a week after the final text was submitted, and in less time than the provisions in the National *Constitution* implementing the *Bougainville Peace Agreement* allow for this stage of the process.

Formal endorsement of the Bougainville Constitution as consistent with the *Papua New Guinea Constitution* (as amended to give legal effect to the *Bougainville Peace Agreement*) will open the way towards elections and the establishment of the Autonomous Bougainville Government. However, concerns previously expressed by the National Government still remain in regard to the cost and complexity of the proposed arrangements, their implications for capacity, political stability and good governance, social integration, and other issues.

(d) UNOMB's role in relation to the timing of elections

Now that the Bougainville Constitution is ready, the legal and administrative framework for making the preparations required and holding elections is clear. The Chief Electoral Commissioner has advised that the funds required to prepare for and hold the elections are available (with Australia's and New Zealand's generous support).

The Bougainville Constitution states that voting in the first Bougainville election will begin within six months of the date on which relevant provisions come into operation (which is the day immediately following publication of the relevant *National Gazette*). Consistent with practicality and the need to provide for unexpected contingencies, the same provisions states the Bougainville leaders responsible for the over-all conduct of the elections, following advice from the Election Manager, can defer voting for up to two months (with an absolute limit of six months).

The *Bougainville Peace Agreement* contains a commitment that '[a]greed plans for weapons disposal will be fully implemented before elections for the autonomous Bougainville Government are held' (Paragraph 324). However, approval of the Bougainville Constitution provides the firm guidance the parties need in order to honour their shared commitment to keep the peace process moving ahead and progress preparations for holding elections. As the relevant provisions in the Bougainville Constitution draw on existing laws and procedures, the steps leading up to the elections and the elections themselves follow a familiar routine.

The Papua New Guinea Electoral Commissioner, the Registrar of Political Parties and other senior officials will travel to Bougainville on 16 December for a workshop to discuss the details with officials on the ground.

Inevitably, the physical damage and destruction, together with the other disruptions, which are part of the post-conflict situation mean that certain physical facilities have to be repaired or reconstructed, equipment must be obtained, and, most importantly, personnel must be trained to implement the new procedures contained in the Bougainville Constitution in order to ensure the elections are free and fair.

A small number of critical appointments required to implement the Bougainville Constitution have to be made (the First Bougainville Bougainville General Election Boundaries Director and Election Manager, and the Bougainville Political Party Monitor). Now that the legal requirements are known if not formally in effect, the National Government has publicly encouraged Bougainville leaders to make these appointments at the earliest practicable opportunity.

A public awareness campaign is needed to explain to explain relevant provisions regarding the right to vote and stand for public office in the Bougainville Constitution, together with procedures and the schedule for enrolling, nominating, voting and declaration of the results.

The Chief Electoral Commissioner of Papua New Guinea, who is an independent Constitutional Officeholder under the National *Constitution*, has worked closely with the Bougainville Provincial Administration and electoral officials on the ground in drawing up the schedule attached.

The next step is that boundaries of the electorates for the Bougainville legislature have to be drawn and accepted.

Electoral officials must be equipped and deployed to revise and update the electoral rolls to ensure consistency with the Bougainville Constitution.

The prompt and efficient fulfillment of these requirements is facilitated by a provision included in the Bougainville Constitution as a result of the joint recommendations previously cited requiring the Bougainville leadership 'at all times, where practicable, [to] utilize existing facilities and personnel of the Bougainville Administration and the appropriate National Government bodies'.

Consistent with the national priority the National Government gives to the Bougainville peace process, it is committed to responding positively to requests for support.

The attached schedule is challenging. Implementation will require careful planning and preparation. Unexpected challenges, such as inclement weather, or developments in or affecting the 'No-Go Zone' might arise. However, the parties and the officials

responsible for implementation are determined to do all they possibly can to implement the schedule and meet the deadlines outlined above.

(e) Other offices

UNOMB continues to make a valuable contribution to promoting public awareness, mutual confidence and security on the ground.

Steps already taken to strengthen security by restoring law and order include:

- the delegation of Police powers to Bougainville, and the introduction of new Bougainville Police uniforms, together with the recruitment of 100 additional Bougainvillean Police (50 of whom are now completing training), the presence of Australian Federal Police working under the Bougainville Police Commander, and the training and retraining of 400 Community Auxiliary Police;

- the planned resumption of National Court sittings in Bougainville in December; and

- plans to restore correctional services in Bougainville.

However, the situation in and around the 'No-Go Zone' remains uncertain following the recent unauthorized landing of foreign aircraft at Aropa and the mysterious arrival of foreigners with unknown purposes; personal difficulties and tensions between Me'ekamui leaders (which have resulted in the unfortunate suicide of a daughter of Francis Ona); and the failure of pyramid 'fast-money' schemes to honour their promises (leading some of their principal promoters to flee the 'No-Go Zone', and, unfortunately, try to resume their activities elsewhere).

In this regard, UNOMB's presence is critical to progress on other fronts, including building and maintaining the mutual confidence required for the forthcoming elections.

Conclusion

Papua New Guinea appreciates and shares other United Nations members' concerns regarding the need for UNOMB and other peace missions to have a clear exit-strategy, not only for budgetary reasons, but, most importantly, so they focus on the goal of ensuring that peace becomes self-sustaining. This shared understanding lies at the heart of the parties' common commitment to secure lasting peace in Bougainville by peaceful means.

If I may say so, Your Excellency's Report to the United Nations Security Council on UNOMB of 29 September (S/2004/771) provided valuable insights into the issues and challenges involved in making timely and orderly progress towards the earliest practicable achievement of our agreed goal and UNOMB's withdrawal. The *Aide*

Memoire attached to the Report makes clear what UNOMB's responsibilities are and why it is needed, including its role in the *Papua New Guinea Constitution*.

I would also respectfully observe that UNOMB is among the most successful, small and economical United Nations peace missions. Much of its success has depended on the firm foundations the *Bougainville Peace Agreement* has among leaders, former combatants, women's and other non-governmental organisations, and communities on the ground. What might be described as its 'bottom-up' character is a strength. It also means that implementation of the *Agreement* is not within the National Government's control, and can be accordingly difficult to plan. This can be seen in the way in which, despite the best advice and intentions, the National Government now finds it necessary to request a further extension for UNOMB – for the sake of maintaining the progress already made, and in order to achieve the final milestone, the election of the Autonomous Bougainville Government.

In making this request, Papua New Guinea respectfully draws attention to the way in which member-states' key concerns regarding the transition to Bougainville autonomy and implementation of the *Bougainville Peace Agreement* have been met - by pointing to finalisation of the Bougainville Constitution, and preparation of a detailed schedule for holding elections. Together, these two important milestones provide a firm and credible basis for the request that UNOMB be extended to complete its agreed assignment at the establishment of the Autonomous Bougainville Government.

The continuing presence and support of UNOMB is critical both to fulfilling the agreed terms of reference approved by the United Nations Security Council, and to honouring the faith the parties involved in the Bougainville peace process placed in the United Nations when we agreed to make UNOMB's role, as authorized by the United Nations Security Council, part of the *Papua New Guinea Constitution*.

It is against this background, and Papua New Guinea's determination to maintain our unbroken record as a constitutional democracy, that Papua New Guinea requests the United Nations to agree that UNOMB continue to play its agreed part in the transition now under way in Bougainville, Papua New Guinea.

Papua New Guinea believes that the shared goal of achieving sustainable peace by honouring the letter and spirit of the *Bougainville Peace Agreement* can be achieved with full regard for the quite proper concerns that members of the United Nations Security Council, other member-states and officials have for economy and a clear and firm exit-strategy. In this regard, it is important that UNOMB continues to draw on personnel with qualifications and experience appropriate to UNOMB's terms of reference. Papua New Guinea believes this can be arranged and managed with proper regard for economy and transition to the kind of United Nations presence appropriate to the activities of other United Nations Departments and specialized agencies in circumstances of sustainable peace, normalcy and ongoing development.

It is in the light of the considerations outlined in this letter that Papua New Guinea respectfully makes this report and request.

In conclusion, let me assure Your Excellency and the United Nations Security Council of Papua New Guinea's highest consideration.

Yours sincerely,

Rt Hon. Rabbie L. Namaliu, KCMG MP
Minister